

Compilation of Email and Written Comments
Received by Facilitation Team (May 24, 2005- May 31, 2005)

Thank you for facilitating the meetings and the process. I am so pleased that both sides of the issue are meeting in a civilized way and hopefully hearing each other. I attended the April meeting and will be at the meeting today.

I am in support of vacation rentals continuing. They diversify the options for incoming visitors, they allow long time residents to keep their properties rather than selling them, they allow mid income people access to their homes while providing some cash flow until they can move here when they retire, and they create more jobs than an empty house.

I totally hear the other side of the issue, neighborhoods changing, rentals being scarce in certain areas, vacation rentals in every neighborhood, houses being cut up into many units increasing the density & demand on infrastructure. Vacation rentals are an easy thing to point to as being the cause of these woes. In fact, unfortunately, the areas where the most vacation rentals are located are beachfront areas in which the property values have gone up to equal some of California's beach properties. At these prices, these homes will sit empty if not rented since the people buying them can afford to do that rather than limit their ability to use their homes. Neighborhoods will not be renewed. There will not be more rentals in these areas but there will be less jobs.

Suggestions have been made: To limit an ever rising number of vacation rentals, you might consider a ban on new ones. That would cut a lot of middle income buyers from the market which would slow things down a bit for a while but the big hitters would continue to buy in the most desirable areas anyway. You could check to make sure any existing ones are paying their taxes. You could use the owner's tax payment records as a test to establish if they should be allowed to be grandfathered. Who would enforce and verify these things is another issue needing consideration.

One woman wrote in about Hanalei Palms in which some really big homes are cut up into many little rentals. That is against the current zoning laws and she could call the planning department. Vacation rentals in Kapahi or other inappropriate areas will most likely fade out since they will not be able to stay booked unless they have something very unique they are offering. The market will take care of most of these since the owners will discover they can make more money from a long term rental.

If the real issue is rental affordability and neighborhoods then we need to look at creating more housing And bolstering our communities rather than using vacation rentals as scape goat: What about good incentives for owners who long term rent? What about making large developers develop their affordable houses concurrent with their money making ones instead of at the end of the project? What about seeking state or federal funds to match privately raised funds that support low income housing? What about streamlined permitting & reduced fees for developers wishing to create low income housing be it for rental or for sale? What about existing community members getting together to

strengthen their bonds, strengthen their sense of community, take a community stand against ice and crime? What about reduced tax rates for first time buyers?

Life changes, years change communities. We must do the best we can since we are stuck with living in one of the most desirable places in the world to live. Creative proactive changes can help out our communities. Prohibiting one method of surviving will not.

I am a native Hawaiian born and raised on the island of Kauai and have been self employed in the home maintenance and housekeeping business here on Kauai for over 20 years.

A ban on vacation rentals on Kauai would put me amongst the ranks of the unemployed. I believe the housing shortage on Kauai needs to be resolved by Government focusing on making low income housing projects for local Kauai residents.

My name is _____. I do gen. maintenance in vacation rentals for many property management businesses on Kauai. I've lived on Kauai for about 12 years. I came to Kauai to help rebuild after Iniki. Vacation rentals make up about 80% of my income. Without this work I don't know if I could live on Kauai. I don't own property, I rent. My two boys went to Kapaa High School.

I give back some of my time to teach self defense at Kauai Athletic Club in Lihue.

Because I was picking up family at the airport, I was unable to attend the Monday meeting on the Vacation Rental issue, thus I am unsure of the apparent outcome of the community discussions. However there are several points about Saturday's meeting that I'd like to bring up in writing.

I'll begin with Ian Costa, since he spoke first; I found the Planning Director's manner cavalier and downright offensive, in a word snarky. Proclaiming that enforcement of any policy or ordinance is difficult if not impossible started out the meeting on a negative note. Smirking through these comments made his efforts seem insincere to find a workable and fair solution to a pressing problem in our community. The fact that he has vacation rental units in Hanalei is clearly a **conflict of interest**, and his inappropriate behavior compounds the sense that he is not to be trusted in this position. He couldn't even stay in his seat; for periods of time he was absent, gone outside or sitting on a table off to the side with his head down. Barely "going through the motions", he conveyed inattention and boredom.

Likewise it is not easy to trust the consultant chosen by him, and I was appalled to think the man was paid thousands of dollars by the county to come up with such a flimsy report. It appeared he did little investigative work himself, relying overwhelmingly on 1999-2000 census data. Also, it seems to me that statistics from the Kauaian Institute are

inconsistent and deeply flawed. Ha'ena, an extremely sensitive area, appears in some charts and not others, and numbers added up differently from chart to chart, reflecting different information. VTR's have swamped the North Shore in the last five years, yet citizens have been trying to get this issue taken seriously since several years before that, so grandfathering in existing units as of 2005 completely misses the point. Ha'ena neighborhoods are gone. Hanalei neighborhoods no longer exist. There are very few people left to advocate for these lost communities.

Many speakers tried to divorce the issue of affordable housing from VTR's, but when so many Kauai residents have been displaced from housing that is then turned into vacation rentals, it can be understood that people feel these issues are linked. They are. Long term housing that is converted to VTR is one more house unavailable as a home for residents. For VTR managers and owners to profess that they would never rent long term if vacation renting their homes was not possible, seemed disingenuous to me. Of course that is what they would say now, on this side of the fight. In a different reality I'm sure that more than a few VTR's would revert to long term. Who can say what these owners would do when faced with leaving them empty or renting long term? It reminded me of the boating wars when boaters and industry supporters said Hanalei would die without the boats. It was a ridiculous argument, proved totally false.

Mainly I feel the fact that VTR's, by their very definition, are commerce, commerce in our neighborhoods, requires that they be regulated and taxed accordingly. Tim Bynum made the very cogent and valid observation that our County Council could have minimized a great deal of this trouble already if they had adopted the Property Tax Plan that their own task force had come up with after a year of volunteer work. It's a very elegant and simple plan that taxes vacation rentals as commercial property, a plan that our Council has dodged implementing. Ignoring the solution of their own task force doesn't bode well for the plan that comes from these meetings, and one wonders when citizens will give up volunteering their precious time doing in this way what amounts to free work for the county.

I feel strongly that VTR's should only be in the VDA's. Since this is no longer a realistic point of view, I will accede that they need to be limited to a percentage in any neighborhood, regulated by a five year (or so) permit. At the five year interval (or whatever time limit is imposed) the permit would come up in a lottery, so that others in the neighborhood could have the opportunity of commercial income. This lottery should be for accommodations where the landlord is absent from the property. Units that are available from homeowners who live in a main house on the premises should be regulated differently, but all VTR's should be taxed commercially. They are hotels.

Also, Bruce Pleas made a very good point that the initial enforcement for VTR's should happen in the Planning Department. If these people were doing their jobs, the multiple unit inns that are sprouting up all over would never get started. These travesties show our county government to be incompetent or corrupt, one or the other. What other conclusion is there? Either way they are serving neither us nor future generations.

PS. After hearing about Monday's meeting: Rezoning Ha'ena and Hanalei as resort is **THE ABSOLUTE WORST OUTCOME** possible of these meetings. It's a terrible idea. It's a **LIE DOWN IN THE ROAD, OVER MY DEAD BODY, TAKE NO PRISONERS** kind of idea. **THIS CANNOT HAPPEN.**

The "stakeholders" committee seems to be biased with anti-vacation rental people, which is contrary to the openness that these meeting are suppose to be about. Just watch Joanne Watanabe whenever anyone says anything positive or in favor of vacation rentals. She coovers her ears, shakes her head "no", make grimicing faces... continously whenever there is anything siad in favor of vacation rentals. It makes me think that these meeting are just for public relations (votes next time around) for the politicians and the outcome has already been predetermined long before the meetings ever began.

Even if all of the vacation rentals outside of VDR's were eliminated, it would NOT restore balance in the communities. High housing prices already have homes out of the price range for "locals". This housing price inflation is a nationwide phenonom due to historic low interest rates, the American population becoming older and wealthier, the stock market being flat for years. Top this off with Kauai being the paradise that everyone wants a part of and you have the reasons for our outrageous housing prices.

If all of the vacation rentals were eliminated, wealthy mainlanders that can afford to let their vacation home sit empty for ten months will move in where the vacation rentals leave. Now the houses will sit empty for a large part of the year with people still not knowing their neighbors and having the sense of "community".

Whateve actions are taken in the issue will most assuredly not give the results desired and will have many far reaching unanticipated results that may be worse than having vacation rentals. You can mark my words on that. Just give it a few years after actions are taken and you will have to agree in the hind sight. Please consider this before rather than a few years after you decide to try to force outcomes that will not happen.

Let us applaud the attention being given by the County to consideration of the subject of "vacation rentals". Many issues relating to this subject have remained unresolved for too long and I would like to offer my comments on some of them.

The starting point for any decisions about the subject of "vacation rental" (VR) is defining and stating what the term means. While the general import of the term is well understood, its specific parameters are not. A determination of the maximum and minimum term of time to constitute a VR is needed. Similarly it needs to specified that

the purpose of the rental is personal accommodations. The nature of the accommodations should be identified, i.e. should rentals of single family residences, apartments and condos all qualify. Should rentals of a portion of a dwelling be included. It should be made clear that a VR does not occur by rentals in a hotel or by occupancy of a time share unit. Thought should also be given whether occasional rentals during the temporary absence of the owner would constitute a VR.

Both law and tradition support the standard that an owner should be entitled to use his property as he chooses unless such use is detrimental to the health or safety of the community or in violation of zoning or other law. I know of no evidence that would support the view that the typical VR is a hazard to the community. I believe, though, that a VR of residence that is not in conformity with zoning laws should be prohibited.

In my view, the application of Kauai's Visitor Destination Area (VDA) ordinance to VRs should be reviewed. It seems to me that the allowability of a VR should not be controlled by the location of the property. The right of an owner to determine the use of his property should be paramount. Attempts by the VDA to control permissible visitor locations are discriminatory and do not serve a valid regulatory purpose.

Beyond the foregoing I believe the focus of any new laws relating to VRS should focus on the property tax aspects of the properties used in VRs.

At present there is a severe shortage of affordable housing on Kauai. It is doubtful that the impact of VRs on this need can be accurately quantified, but there can also be no doubt that properties placed in VR programs can and do reduce housing units that would otherwise be available for resident housing. The owner of properties being held for investment or income has in most instances the choice whether to seek VRs or other rentals. There are two property tax enactments that that should be made to provide such owners with incentives to place investment properties into rentals to residents. The first is to supplement the rather limited current tax law by providing that properties rented to residents either long term or a short term basis would be taxed at a lower rate. The provision in the existing law as to maximum rentals should be changed so that the criteria relates to percentage of assessed value rather than absolute limit. The second enactment should be to lace properties used for VRs with the same rate as that applying to other properties used for visitor accommodation i.e. hotels and time share properties. In each case the property is being used to provide accommodations for visitors and the property tax law should reflect that parity. It is unjustifiable that some marketers of accommodations for visitors should be taxed on a different basis than others.

It is urgent that our lawmakers should enact laws clarifying the identification of VRs and providing equitable resolution of the issues that have risen concerning them and for the enforcement of the changes made.

I have attended four meetings on this issue, one in Hanalei and three in Lihue. As you would expect, many diverse views were expressed. I spoke at all those meetings but would like to add my written comments as well.

I grew up on Oahu but spent summers with my grandfather who had lived on Kauai since around 1900. In 1974, I built a single-family home (3 bedrooms, two baths, one kitchen) on my lot on Kauai so that my children could enjoy the same experiences I had as a young man. Since we were residing on Oahu (because of jobs and schooling) I began to rent the home as a vacation rental. This allowed me to cover most of my ownership costs and allowed my family to use our home from time to time. My goal is to one day retire there and give it to the children when I pass on.

Since those halcyon days, much has changed on Kauai. Too many people with a lot of money are purchasing land on the island, driving real estate prices and property taxes through the roof. While this situation has contributed to an economic boom on Kauai, it comes at a price. Local people are threatened by a change in culture as others move to Kauai in increasing numbers and ownership of their land is jeopardized by skyrocketing property taxes. As a result of these dramatically rising property costs, the density of structures on the island has increased and SFVRs have spread to more areas of the island as property owners attempt to cover their costs. While more tourists are now seeking an SFVR “experience” on Kauai, the major reason property owners convert residences to SFVRs is that it affords them a better opportunity to recover some of their costs and still have some time to use their property themselves.

Since we live in a free-market society, there is virtually nothing the County can do to control prices, if, indeed, that was even desirable. The County can control tax structure and density of construction through zoning and building permitting, two areas in which I feel the County has not done its job.

Going forward, solutions need to be developed that will provide a balance in the cultural arena (residential vs tourist accommodations), provide incentives for property owners to use their property for long-term rentals or their personal use and utilize the existing powers the County has to control taxes and building density. These solutions must also scrupulously avoid infringing on owners’ property rights.

I support the concept of registering properties for SFVR use, just as was done on Oahu. As one of the consultants said in meeting #2, when that process was implemented on Oahu, the number of SFVRs (and bed-and-breakfasts) decreased dramatically. I suggest this step be taken as soon as possible, then watch the situation and see what transpires before any additional regulatory steps are contemplated.

In the tax area, I support a drastic reduction in property tax rates and/or a change in the taxation structure. When I built my home in 1974, I paid hundreds of dollars per year in property tax. Today I pay \$18,000 per year (\$1,500 per month) for the same property, same house (one bathroom added since 1974) same use, same demand for County services. At those rates, it is questionable that I could live there on my fixed retirement

income. Changing the property tax structure to one with a fixed amount of tax based on purchase price would be an excellent option for allowing State and County residents to keep their properties without having to resort to SFVR or adding rental structures to their property to afford its ownership. In any case, I also support a tiered property tax structure so that owner occupants pay the least tax and hotels pay the most. If a property's use changes, the tax due would be adjusted accordingly.

Density/over-crowding is a huge threat to the culture of Kauai so controlling it by enforcing the existing rules must also be a part of any solution going forward. Shortly after I built my home in 1974, another home was built nearby which had two kitchens, a complete violation of the zoning rules at that time. Today, a home is under construction on Weke Road, which fills its lot to the extent that it does not appear there is enough room for even a few cars to park on the property. This has to be contrary to the existing rules governing the percentage of lot area that a structure may occupy. Speakers in the hearings have said that many parcels in Haena have a higher density of structures than allowed by the current zoning. The County must do better in its permitting and monitoring of building density.

Taken all together, the steps I have outlined would restore balance in property use on Kauai. They would provide relief for property owners so that they would be less inclined to either maximize the number of structures on their property (legally or illegally) for transient rentals or use single-family homes in residential areas as transient rentals. They would also avoid any property rights issues and potential legal action against the County that more regulation could easily generate.

Thank you for your consideration of these ideas.
Aloha,
Geoff Avery

I am writing this letter as a lifetime resident, 39 years and going back at least 4 generations, on the island of Kaua'i and as an employee in the vacation rental industry. I have attended 2 of the 3 public meetings and wanted to share my feelings on this issue. First of all, I would like to acknowledge the stakeholders that have put in a lot of their time in trying to resolve the concerns of the Kauai'i residents. I do feel, however, that one of the stakeholders should either be replaced or be able to keep a more open mind. That stakeholder is Joanne Watanabe. She sits there and shakes her head, covers her ears, or grimaces when things are said in favor of vacation rentals.

Aren't the stakeholders supposed to be objective so as to come up with ideas that would benefit both sides?

Second, at the 2 meetings I attended, the biggest concern seems to be wanting to regain the "community". I'm not sure what these residents are hoping for with having just "locals" around them. I live, and have lived for 39 years, in a non VDA area. I am surrounded by local residents and do not have a "community" feeling here. Our

neighbors have also been here as long as we have and do not have “barbecues” with them or talk to each other over the fence.

When I was growing up, there was a farm behind our house, now there is a subdivision. We don’t have barbecues or talk over the fence with them either. I would love to be able to go back to having just a farm there. It is too “busy” and “loud” here now. And being that they are residents, they aren’t leaving anytime soon. At least with vacation rentals, if there are visitors that happen to “rub us the wrong way”, you can have peace knowing they have to go home.

Also, I remember when times were tougher here on the island as far as employment. I do believe that right now we have the lowest unemployment rate ever. And we owe most of that to the visitor industry. Take away the vacation rentals and you take away a lot of the jobs. I don’t believe we want to go back to everyone struggling to survive because of the lack of jobs.

So what is our goal? Finding a balance.

I looked up the word “community” in the dictionary and one of the definitions is “an interacting population of various kinds of individuals in a common location”.
